

2001 DRAFTING REQUEST

Bill

Received: **01/03/2001**

Received By: **traderc**

Wantcd: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Grinde**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Agriculture - miscellaneous**

Extra Copies:

Pre Topic:

DOA:.....Grinde -

Topic:

Replace farmland preservation liens with conversion fees

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	traderc 01/05/2001	wjackson 01/06/2001	martykr 01/06/2001	_____	lrb_docadmin 01/07/2001		S&L
/2	traderc 01/14/2001	chanaman 01/14/2001	rschluet 01/14/2001	_____	lrb_docadmin 01/15/2001		S&L

FE Sent For:

<END>

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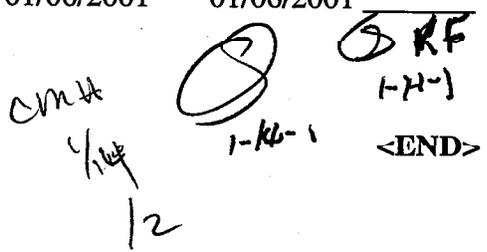
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1/?	traderc	1 WLj 1/6	km/c	km/c			

FE Sent For:

<END>



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY

Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: December 29, 2000

To: Steve Miller
Chief, Legislative Reference Bureau

From: Kirsten Grinde *KMA*
State Budget Office

Subject: 2001-03 Biennial Budget Statutory Language Proposal

The following is a statutory language proposal for the 2001-03 biennial budget. If you have any questions, please contact me at 266-7973 or kirsten.grinde@doa.state.wi.us.

The intent of this request is to modify the current payback and lien provisions of the Farmland Preservation Program. The proposed modifications would replace the current payback calculation and lien provisions with flat conversion fees:

- \$60 per acre for land rezoned out of exclusive agricultural zoning and for conditional use permits; and
- \$50 per acre for buyout or release of farmland preservation agreements.

Payment of the \$60 per acre conversion fee would be required at the time the rezone petition or conditional use permit is issued by the local unit of government. Payment would be made to the local unit of government, which may retain the funds.

Payment of the \$50 per acre conversion fee would be required at the time of the buyout or release of the farmland preservation agreement. Payments would be deposited in the general fund.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1753/1

RCT:./:....
WJ

SOON (introducing 1/5)

DOA:.....Grinde – Replace farmland preservation liens with conversion fees
FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

DNote

DO NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

AGRICULTURE

Under current law, one of the eligibility requirements to claim the farmland preservation tax credit is that the land to which the claim relates be subject either to a farmland preservation agreement or to an exclusive agricultural use zoning ordinance that is certified by the land and water conservation board. A farmland preservation agreement is between the landowner and DATCP. The agreement commits the owner to keep the land in agricultural use for the duration of the agreement, up to 25 years, although the law allows DATCP to release land from an agreement under certain circumstances. Under current law, in some of the circumstances under which DATCP may release land from a farmland preservation agreement, or if land is rezoned from exclusive agricultural use, DATCP is required to file a lien against the land in the amount of the farmland preservation credit received by the owner during the preceding ten years.

This bill eliminates the requirement that DATCP file a lien against land that is released from a farmland preservation agreement or that is rezoned from exclusive agricultural use. Under this bill, DATCP may not release land from a farmland preservation agreement until the owner pays \$50 per acre to this state, except in certain cases such as the death or disability of the owner. Also under this bill, rezoning of land from exclusive agricultural zoning must be conditioned on payment to the local governmental unit that grants the rezoning of \$60 per acre of land that is rezoned.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.60 (1) (b) [✓] of the statutes is amended to read:

2 71.60 (1) (b) The credit allowed under this subchapter shall be limited to 90%
3 of the first \$2,000 of excessive property taxes plus 70% of the 2nd \$2,000 of excessive
4 property taxes plus 50% of the 3rd \$2,000 of excessive property taxes. The maximum
5 credit shall not exceed \$4,200 for any claimant. The credit for any claimant shall be
6 the greater of either the credit as calculated under this subchapter as it exists at the
7 end of the year for which the claim is filed or as it existed on the date on which the
8 farmland became subject to a current agreement under subch. II ~~or III~~ of ch. 91 or
9 under subch. III of ch. 91, 1999 stats., using for such calculations household income
10 and property taxes accrued of the year for which the claim is filed.

11 History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39; 1993 a. 246, 420. ✓

11 **SECTION 2.** 71.60 (1) (c) 3. of the statutes is amended to read:

12 71.60 (1) (c) 3. If the claimant or any member of the claimant's household owns
13 farmland ^{GREY THAT} ~~which~~ is ineligible for credit under subd. 1. or 2. but was subject to a
14 farmland preservation agreement under subch. III of ch. 91, 1999 stats., on July 1
15 of the year for which credit is claimed, or the owner had applied for such an
16 agreement before July 1 of such year, ² and the agreement has subsequently been
17 executed, and if the owner has applied by the end of the year in which conversion
18 under s. 91.41, 1999 stats., is first possible for conversion of the agreement to a
19 transition area agreement under subch. II of ch. 91, and the transition area
20 agreement has subsequently been executed, and the farmland is located in a city or
21 village ^{GREY THAT} ~~which~~ has a certified exclusive agricultural use zoning ordinance under

1 subch. V of ch. 91 in effect at the close of the year for which credit is claimed, or in
2 a town ~~which~~ ^{site that} is subject to a certified county exclusive agricultural use zoning
3 ordinance under subch. V of ch. 91 in effect at the close of the year for which credit
4 is claimed, the amount of the claim shall be that specified in par. (b).

5 History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39; 1993 a. 246, 420. ✓

5 **SECTION 3.** 71.60 (1) (c) 5. ✓ of the statutes is amended to read:

6 71.60 (1) (c) 5. If the claimant or any member of the claimant's household owns
7 farmland which is ineligible for credit under subs. 1. to 4. but was subject to a
8 farmland preservation agreement under subch. III of ch. 91, 1999 stats., on July 1
9 of the year for which credit is claimed, or the owner had applied for such an
10 agreement before July 1 of such year and the agreement has subsequently been
11 executed, and if the owner has applied by the end of the year in which conversion
12 under s. 91.41, 1999 stats., is first possible for conversion of the agreement to an
13 agreement under subch. II of ch. 91, and the agreement under subch. II of ch. 91 has
14 subsequently been executed, the amount of the claim shall be limited to 80% of that
15 specified in par. (b).

16 History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39; 1993 a. 246, 420. ✓

16 **SECTION 4.** 71.60 (1) (c) 8. ✓ of the statutes is amended to read:

17 71.60 (1) (c) 8. If the farmland is subject to a farmland preservation agreement
18 under subch. III of ch. 91, 1999 stats., on July 1 of the year for which credit is claimed^Δ
19 or the claimant had applied for such an agreement before July 1 of such year and the
20 agreement has subsequently been executed, the amount of the claim shall be limited^Δ
21 to 50% of that specified in par. (b).

22 History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39; 1993 a. 246, 420. ✓

22 **SECTION 5.** 91.13 (8) (fm) ✓ of the statutes is amended to read:

23 91.13 (8) (fm) A statement in boldface uppercase type that contains the
24 following language: "UPON ~~RELINQUISHMENT~~ (WITHDRAWAL OR

1 ~~EXPIRATION) OF FROM THIS AGREEMENT, A PAYBACK OF CREDITS WITH~~
 2 ~~INTEREST PAYMENT TO THE STATE MAY BE REQUIRED.”~~

3 History: 1977 c. 29, 169, 418, 447; 1979 c. 233 s. 8; 1981 c. 346 ss. 23, 38; 1983 a. 311; 1985 a. 29; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 56; 1991 a. 39, 286.

3 SECTION 6. 91.17 (1) ²and (2) ¹⁵of the statutes ~~are~~ amended to read:

4 91.17 (1) Land subject to a farmland preservation agreement may be sold
 5 without ~~a lien being filed~~ payment being made under s. 91.19 (7m) [✓], subject to the
 6 reservation of rights contained in the agreement. The seller shall notify the
 7 department of any such transfer. ~~The purchaser shall be liable under any~~
 8 ~~subsequent lien under s. 91.19 only for the amount of tax credits paid on that portion~~
 9 ~~of the land purchased.~~

AM; 91.17 (2)

10 91.17 (2) When the owner of land subject to a farmland preservation agreement dies
 11 or is certified by a physician to be totally and permanently disabled, the land may
 12 be released from the program under this chapter and shall not be subject to a lien
 13 payment under s. 91.19 (8) (7m) [✓].

14 History: 1977 c. 29, 169; 1987 a. 399; 1993 a. 16.

14 SECTION 7. 91.17 (3) [✓]of the statutes is repealed.

15 SECTION 8. 91.19 (2) (intro.) [✓]of the statutes is amended to read:

16 91.19 (2) (intro.) The Subject to sub. (7m) [✓], the department may relinquish the
 17 farmland preservation agreement or may release part of the land from a farmland
 18 preservation agreement prior to the termination date contained in the instrument
 19 as follows:

20 History: 1977 c. 29, 169, 418; 1979 c. 221; 1983 a. 311; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31; 1991 a. 39, 286; 1993 a. 16; 1995 a. 27.

20 SECTION 9. 91.19 (3) [✓]of the statutes is amended to read:

21 91.19 (3) If the request for relinquishment of the farmland preservation
 22 agreement or release of part of the land from the agreement is approved by the local
 23 governing body having jurisdiction, a copy of the application, along with the
 24 comments and recommendations of the reviewing agencies, shall be forwarded to the

1 board. The board shall, within 60 days, upon consideration of the factors in sub. (2)
2 (b) and (c) 2., approve or reject the application for relinquishment or release. If the
3 board approves the application it shall notify the local governing body having
4 jurisdiction, the department of agriculture, trade and consumer protection, and the
5 department of revenue, ~~prepare an instrument under sub. (7) and record it with the~~
6 ~~register of deeds of the county in which the land is located.~~

7 History: 1977 c. 29, 169, 418; 1979 c. 221; 1983 a. 311; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31; 1991 a. 39, 286; 1993 a. 16; 1995 a. 27.

8 **SECTION 10.** 91.19 (5) of the statutes is amended to read:

9 91.19 (5) If the application for rclinquishment of the agreement or release of
10 part of the land from the agreement is rejected by the local governing body having
11 jurisdiction, the application shall be returned to the applicant with a written
12 statement regarding the reasons for rejection. Within 30 days after receipt of the
13 rejected application, the applicant may appeal the rejection to the board. The board
14 shall, within 60 days after the appeal has been received, upon consideration of the
15 factors listed in sub. (2) (b) and (c) 2., approve or reject the request for relinquishment
16 or release. If the board approves the application it shall notify the local governing
17 body having jurisdiction, the department of agriculture, trade and consumer
18 protection, and the department of revenue, ~~prepare an instrument under sub. (7) and~~
~~record it with the register of deeds of the county in which the land is located.~~

19 History: 1977 c. 29, 169, 418; 1979 c. 221; 1983 a. 311; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31; 1991 a. 39, 286; 1993 a. 16; 1995 a. 27.

20 **SECTION 11.** 91.19 (6p) of the statutes is repealed.

21 **SECTION 12.** 91.19 (6t) of the statutes is amended to read:

22 91.19 (6t) The Subject to sub. (7m), the department shall relinquish from a
23 farmland preservation agreement land that has been subject to a farmland
preservation agrcement for at least 10 years if the owner of the land so requests.

24 History: 1977 c. 29, 169, 418; 1979 c. 221; 1983 a. 311; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31; 1991 a. 39, 286; 1993 a. 16; 1995 a. 27.

SECTION 13. 91.19 (7) of the statutes is repealed.

1 SECTION 14. 91.19 (7m) of the statutes is created to read:

2 91.19 (7m) (a) Except as provided in par. (b), the department may not
3 relinquish a farmland preservation agreement under sub^⓪(2) or (6t) or release land
4 from a farmland preservation agreement under sub. (2) until the owner pays to the
5 department \$50 per acre of land that is no longer covered by the farmland
6 preservation agreement.

7 (b) The payment under par. (a) does not apply to land that is zoned for
8 exclusively agricultural use under an ordinance certified under subch. V.

9 SECTION 15. 91.19 (8) to (13) of the statutes are repealed.

→ # AM; Q1.23

10 91.23 Conversion. An owner under a farmland preservation agreement may
11 at any time apply for a transition area agreement, and an owner under a transition
12 area agreement may at any time apply for a farmland preservation agreement. If
13 such an application is approved, the prior agreement shall be relinquished without
14 a lien being filed payment being made under s. 91.19 (7m).

History: 1977 c. 29, 169.

15 SECTION 16. 91.21 (1) of the statutes is amended to read:

16 91.21 (1) If the owner or a successor in title of the land upon which a farmland
17 preservation agreement has been recorded under this chapter changes the use of the
18 land to a prohibited use without first acting under ss. 91.17 and 91.19 and the land
19 is not relinquished under s. 91.19 (6p) or (6t), the owner or successor in title may be
20 enjoined by the state, acting through the attorney general, or by the local governing
21 body having jurisdiction, acting through its attorney, and is subject to a civil penalty
22 for actual damages, but in no case to exceed double the value of the land as
23 established at the time the application for the agreement was approved.

History: 1977 c. 29; 1989 a. 31; 1991 a. 39, 286.

[precedes 91.31]

1 SECTION 17. Subchapter III of chapter 91 ~~[precedes 91.31]~~ of the statutes is
2 repealed.

3 SECTION 18. 91.75 (6) of the statutes is amended to read:

4 91.75 (6) For purposes of farm consolidation and if permitted by local
5 regulation, farm residences or structures ^{that} which existed prior to the adoption of the
6 ordinance may be separated from a larger farm parcel. Farm residences or
7 structures with up to 5 acres of land ^{that} which are separated from a larger farm parcel
8 under this section are not subject to ~~the lien under s. 91.19 (8) to (10), as the payment~~
9 required in s. 91.77 (2) or 91.79.

History: 1977 c. 29, 169, 418; 1983 a. 311; 1987 a. 399; 1991 a. 39, 286; 1993 a. 112, 464; 1995 a. 201, 227; 1997 a. 252; 1999 a. 9.

10 SECTION 19. 91.77 (2) of the statutes is amended to read:

11 91.77 (2) ~~Land which is rezoned~~ Rezoning under this section shall be subject
12 ~~to the lien provided under s. 91.19 (8) to (10) for the amount of tax credits paid on the~~
13 land rezoned conditioned on the payment, to the county, city, village, or town that
14 approves the petition, of \$60 per acre of land that is rezoned. If the rezoning occurs
15 solely as a result of action initiated by a governmental unit, ~~any lien required under~~
16 s. 91.19 (8) to (10) other than the county, city, village, or town that approves the
17 petition, the payment shall be paid made by the governmental unit initiating the
18 action.

History: 1977 c. 29, 169; 1983 a. 311.

19 SECTION 20. 91.79 of the statutes is amended to read:

20 91.79 **Conditional uses; lien payment.** Any land ~~zoned under this~~
21 ~~subchapter which is granted a special exception or conditional use permit for a use~~
22 ^{that} which is not an agricultural use that is granted for land zoned under this subchapter
23 ~~shall be subject to the lien provided under s. 91.19 (8) to (10) for the amount of tax~~
24 credits paid on the land granted such a permit conditioned on the payment, to the

1 county, city, village, or town that grants the special exception or conditional use
2 permit, of \$60 per acre of land for which the special exception or conditional use
3 permit is granted.

4 History: 1977 c. 169.

5 **SECTION 9304. Initial applicability; agriculture, trade and consumer**
6 **protection.**

7 (1) FARMLAND PRESERVATION CONVERSION FEES. The treatment of sections 91.17
8 (1), (2), and (3), 91.19 (2) (intro.), (3), (5), (6t), (7), (7m), and (8) to (13), 91.23, 91.75
9 (6), 91.77 (2), and 91.79 of the statutes first applies to land that is released or
10 relinquished or released from a farmland preservation agreement or rezoned from
11 exclusive agricultural zoning on the effective date of this subsection.

(END)

DNate

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1753/1dn

RCT./.....

WJ

Kirsten Grinde:

Please review this draft carefully to ensure that it complies with your intent. Under current law, a lien is supposed to be filed when an agreement is relinquished under s. 91.19 (1) or (1m) (upon termination of the agreement or death or disability of the landowner) if the landowner did not comply with the requirements of the agreement. This draft does not provide for a payment upon termination of the agreement or death or disability of the landowner, whether or not the agreement was complied with. Is that OK?

I repealed s. 91.19 (6p) on the grounds that the date in that provision is long past. If you think that is not a good idea, please let me know.

The draft repeals subch. III of ch. 91 because all of the initial agreements have expired and it seemed illogical to put language in the statutes about what happens if a landowner withdraws from one.

Do you want a delayed effective date?

Please let me know if you have any questions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1753/1dn
RCT:wlj:km

January 6, 2001

Kirsten Grinde:

Please review this draft carefully to ensure that it complies with your intent. Under current law, a lien is supposed to be filed when an agreement is relinquished under s. 91.19 (1) or (1m) (upon termination of the agreement or death or disability of the landowner) if the landowner did not comply with the requirements of the agreement. This draft does not provide for a payment upon termination of the agreement or death or disability of the landowner; whether or not the agreement was complied with. Is that OK?

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Please let me know if you have any questions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

Tradewell, Becky

From: Grinde, Kirsten
Sent: Saturday, January 13, 2001 7:05 PM
To: Tradewell, Becky
Subject: LRB-1753/1 - Replace farmland preservation liens

Becky,

Please note the following comments and make the following changes to LRB-1753/1:

1. Regarding your first question and following two comments on the drafter's note: These are OK.
2. Regarding your question on the drafter's note re: delayed effective date: I don't think one is necessary, since you have the initial applicability section included.
3. We have decided that, as under current law with liens, all payments will come to the state, so please make the necessary changes to the exclusive ag zoning sections to reflect deposit of the payments with the state. I think the local unit of government granting the rezone or conditional use permit will need to collect the money and remit it to the department for deposit in the general fund. If the governmental unit initiates the rezone, the governmental unit will make the payment to the state.
- ✓4. Page 8, lines 5-6: Is there an extra "released or" included here?

Let me know if you have any questions.

Thanks,

Kirsten

State Budget Office
Department of Administration
101 E. Wilson St., 10th floor
Madison, WI 53707-7864

voice: (608) 266-7973
fax: (608) 267-0372
e-mail: kirsten.grinde@doa.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

50 d

LRB-1753

RCT:wly/km

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Cmtt

rnr

DOA:.....Grinde - Replace farmland preservation liens with conversion fees
FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT ^{mon gen cast} relating to: the budget.

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Under current law, one of the eligibility requirements to claim the farmland preservation tax credit is that the land to which the claim relates be subject either to a farmland preservation agreement or to an exclusive agricultural use zoning ordinance that is certified by the land and water conservation board. A farmland preservation agreement is between the landowner and DATCP. The agreement commits the owner to keep the land in agricultural use for the duration of the agreement, up to 25 years, although the law allows DATCP to release land from an agreement under certain circumstances. Under current law, in some of the circumstances under which DATCP may release land from a farmland preservation agreement, or if land is rezoned from exclusive agricultural use, DATCP is required to file a lien against the land in the amount of the farmland preservation credit received by the owner during the preceding ten years.

This bill eliminates the requirement that DATCP file a lien against land that is released from a farmland preservation agreement or that is rezoned from exclusive agricultural use. Under this bill, DATCP may not release land from a farmland preservation agreement until the owner pays \$50 per acre to this state, except in certain cases such as the death or disability of the owner. Also under this bill, rezoning of land from exclusive agricultural zoning must be conditioned on payment to the local governmental unit that grants the rezoning of \$60 per acre of land that is rezoned.

* *Payment is made to the local governmental unit that grants the rezoning, and the local governmental unit forwards the payment to the state.*

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.60 (1) (b) of the statutes is amended to read:

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3 of the first \$2,000 of excessive property taxes plus 70% of the 2nd \$2,000 of excessive
4 property taxes plus 50% of the 3rd \$2,000 of excessive property taxes. The maximum
5 credit shall not exceed \$4,200 for any claimant. The credit for any claimant shall be
6 the greater of either the credit as calculated under this subchapter as it exists at the
7 end of the year for which the claim is filed or as it existed on the date on which the
8 farmland became subject to a current agreement under subch. II ~~or III~~ of ch. 91 or
9 under subch. III of ch. 91, 1999 stats., using for such calculations household income
10 and property taxes accrued of the year for which the claim is filed.

11 **SECTION 2.** 71.60 (1) (c) 3. of the statutes is amended to read:

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13 farmland which is ineligible for credit under subd. 1. or 2. but was subject to a
14 farmland preservation agreement under subch. III of ch. 91, 1999 stats., on July 1
15 of the year for which credit is claimed, or the owner had applied for such an
16 agreement before July 1 of such year, and the agreement has subsequently been
17 executed, and if the owner has applied by the end of the year in which conversion
18 under s. 91.41, 1999 stats., is first possible for conversion of the agreement to a
19 transition area agreement under subch. II of ch. 91, and the transition area
20 agreement has subsequently been executed, and the farmland is located in a city or
21 village which has a certified exclusive agricultural use zoning ordinance under

1 subch. V of ch. 91 in effect at the close of the year for which credit is claimed, or in
2 a town which is subject to a certified county exclusive agricultural use zoning
3 ordinance under subch. V of ch. 91 in effect at the close of the year for which credit
4 is claimed, the amount of the claim shall be that specified in par. (b).

5 **SECTION 3.** 71.60 (1) (c) 5. of the statutes is amended to read:

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12 under s. 91.41, 1999 stats., is first possible for conversion of the agreement to an
13 agreement under subch. II of ch. 91, and the agreement under subch. II of ch. 91 has
14 subsequently been executed, the amount of the claim shall be limited to 80% of that
15 specified in par. (b).

16 **SECTION 4.** 71.60 (1) (c) 8. of the statutes is amended to read:

17 71.60 (1) (c) 8. If the farmland is subject to a farmland preservation agreement
18 under subch. III of ch. 91, 1999 stats., on July 1 of the year for which credit is claimed,
19 or the claimant had applied for such an agreement before July 1 of such year, and the
20 agreement has subsequently been executed, the amount of the claim shall be limited
21 to 50% of that specified in par. (b).

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24 following language: "UPON ~~RELINQUISHMENT~~ (WITHDRAWAL OR

1 ~~EXPIRATION) OF FROM THIS AGREEMENT, A PAYBACK OF CREDITS WITH~~
2 ~~INTEREST PAYMENT TO THE STATE MAY BE REQUIRED."~~

3 SECTION 6. 91.17 (1) of the statutes is amended to read:

4 *not bold* **91.17** (1) Land subject to a farmland preservation agreement may be sold
5 without a lien being filed *add stricken space* payment being made under s. 91.19 (7m), subject to the
6 reservation of rights contained in the agreement. The seller shall notify the
7 department of any such transfer. ~~The purchaser shall be liable under any~~
8 ~~subsequent lien under s. 91.19 only for the amount of tax credits paid on that portion~~
9 ~~of the land purchased.~~

10 SECTION 7. 91.17 (2) of the statutes is amended to read:

11 91.17 (2) When the owner of land subject to a farmland preservation agreement
12 dies or is certified by a physician to be totally and permanently disabled, the land
13 may be released from the program under this chapter and shall not be subject to a
14 lien payment under s. 91.19 (8) (7m). *add stricken space*

15 SECTION 8. 91.17 (3) of the statutes is repealed.

16 SECTION 9. 91.19 (2) (intro.) of the statutes is amended to read:

17 91.19 (2) (intro.) The Subject to sub. (7m), the department may relinquish the
18 farmland preservation agreement or may release part of the land from a farmland
19 preservation agreement prior to the termination date contained in the instrument
20 as follows:

21 SECTION 10. 91.19 (3) of the statutes is amended to read:

22 91.19 (3) If the request for relinquishment of the farmland preservation
23 agreement or release of part of the land from the agreement is approved by the local
24 governing body having jurisdiction, a copy of the application, along with the
25 comments and recommendations of the reviewing agencies, shall be forwarded to the

1 board. The board shall, within 60 days, upon consideration of the factors in sub. (2)
2 (b) and (c) 2., approve or reject the application for relinquishment or release. If the
3 board approves the application it shall notify the local governing body having
4 jurisdiction, the department of agriculture, trade and consumer protection, and the
5 department of revenue, ~~prepare an instrument under sub. (7) and record it with the~~
6 ~~register of deeds of the county in which the land is located.~~

7 **SECTION 11.** 91.19 (5) of the statutes is amended to read:

8 91.19 (5) If the application for relinquishment of the agreement or release of
9 part of the land from the agreement is rejected by the local governing body having
10 jurisdiction, the application shall be returned to the applicant with a written
11 statement regarding the reasons for rejection. Within 30 days after receipt of the
12 rejected application, the applicant may appeal the rejection to the board. The board
13 shall, within 60 days after the appeal has been received, upon consideration of the
14 factors listed in sub. (2) (b) and (c) 2., approve or reject the request for relinquishment
15 or release. If the board approves the application it shall notify the local governing
16 body having jurisdiction, the department of agriculture, trade and consumer
17 protection, and the department of revenue, ~~prepare an instrument under sub. (7) and~~
18 ~~record it with the register of deeds of the county in which the land is located.~~

19 **SECTION 12.** 91.19 (6p) of the statutes is repealed.

20 **SECTION 13.** 91.19 (6t) of the statutes is amended to read:

21 91.19 (6t) The Subject to sub. (7m), the department shall relinquish from a
22 farmland preservation agreement land that has been subject to a farmland
23 preservation agreement for at least 10 years if the owner of the land so requests.

24 **SECTION 14.** 91.19 (7) of the statutes is repealed.

25 **SECTION 15.** 91.19 (7m) of the statutes is created to read:

1 91.19 (7m) (a) Except as provided in par. (b), the department may not
2 relinquish a farmland preservation agreement under sub. (2) or (6t) or release land
3 from a farmland preservation agreement under sub. (2) until the owner pays to the
4 department \$50 per acre of land that is no longer covered by the farmland
5 preservation agreement.

6 (b) The payment under par. (a) does not apply to land that is zoned for
7 exclusively agricultural use under an ordinance certified under subch. V.

8 **SECTION 16.** 91.19 (8) to (13) of the statutes are repealed.

9 **SECTION 17.** 91.21 (1) of the statutes is amended to read:

10 91.21 (1) If the owner or a successor in title of the land upon which a farmland
11 preservation agreement has been recorded under this chapter changes the use of the
12 land to a prohibited use without first acting under ss. 91.17 and 91.19 and the land
13 is not relinquished under s. 91.19 (6p) or (6t), the owner or successor in title may be
14 enjoined by the state, acting through the attorney general, or by the local governing
15 body having jurisdiction, acting through its attorney, and is subject to a civil penalty
16 for actual damages, but in no case to exceed double the value of the land as
17 established at the time the application for the agreement was approved.

18 **SECTION 18.** 91.23 of the statutes is amended to read:

19 **91.23 Conversion.** An owner under a farmland preservation agreement may
20 at any time apply for a transition area agreement, and an owner under a transition
21 area agreement may at any time apply for a farmland preservation agreement. If
22 such an application is approved, the prior agreement shall be relinquished without

23 ~~a lien being filed payment being made under s. 91.19 (7m).~~

24 **SECTION 19.** Subchapter III of chapter 91 [precedes 91.31] of the statutes is
25 repealed.

~~A county, city, village, or town that receives payment under this subsection shall~~
~~pay to the state the amount received~~

1 **SECTION 20.** 91.75 (6) of the statutes is amended to read:

2 **91.75 (6)** For purposes of farm consolidation and if permitted by local
3 regulation, farm residences or structures which that existed prior to the adoption of
4 the ordinance may be separated from a larger farm parcel. Farm residences or
5 structures with up to 5 acres of land which that are separated from a larger farm
6 parcel under this section are not subject to the lien under s. 91.19 (8) to (10), as the
7 payment required in s. 91.77 (2) or 91.79.

8 **SECTION 21.** 91.77 (2) of the statutes is amended to read:

9 **91.77 (2)** Land which is rezoned Rezoning under this section shall be subject
10 to the lien provided under s. 91.19 (8) to (10) for the amount of tax credits paid on the
11 land rezoned conditioned on the payment, to the county, city, village, or town that
12 approves the petition, of \$60 per acre of land that is rezoned. If the rezoning occurs
13 solely as a result of action initiated by a governmental unit, ^{plain comma} any lien required under
14 s. 91.19 (8) to (10) ~~other than the county, city, village, or town that approves the~~
15 ~~petition,~~ the payment shall be paid made by the governmental unit initiating the
16 action. to the state

17 **SECTION 22.** 91.79 of the statutes is amended to read:

18 **91.79 Conditional uses; lien payment.** Any land ~~zoned~~ under this
19 subchapter which is granted a special exception or conditional use permit for a use
20 which that is not an agricultural use that is granted for land zoned under this
21 subchapter shall be subject to the lien provided under s. 91.19 (8) to (10) for the
22 amount of tax credits paid on the land granted such a permit conditioned on the
23 payment, to the county, city, village, or town that grants the special exception or
24 conditional use permit, of \$60 per acre of land for which the special exception or
25 conditional use permit is granted.

to the state
~~A county, city, village, or town that receives payment under this section~~
~~shall pay the amount received to the state.~~



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1753/2
RCT:wlj&cmh:rs

DOA:.....Grinde – Replace farmland preservation liens with conversion fees
FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

AGRICULTURE

Under current law, one of the eligibility requirements to claim the farmland preservation tax credit is that the land to which the claim relates be subject either to a farmland preservation agreement or to an exclusive agricultural use zoning ordinance that is certified by the land and water conservation board. A farmland preservation agreement is between the landowner and DATCP. The agreement commits the owner to keep the land in agricultural use for the duration of the agreement, up to 25 years, although the law allows DATCP to release land from an agreement under certain circumstances. Under current law, in some of the circumstances under which DATCP may release land from a farmland preservation agreement, or if land is rezoned from exclusive agricultural use, DATCP is required to file a lien against the land in the amount of the farmland preservation credit received by the owner during the preceding ten years.

This bill eliminates the requirement that DATCP file a lien against land that is released from a farmland preservation agreement or that is rezoned from exclusive agricultural use. Under this bill, DATCP may not release land from a farmland preservation agreement until the owner pays \$50 per acre to this state, except in certain cases such as the death or disability of the owner. Also under this bill, rezoning of land from exclusive agricultural zoning must be conditioned on payment of \$60 per acre of land that is rezoned. Payment is made to the local governmental

unit that grants the rezoning, and the local governmental unit forwards the payment to the state.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.60 (1) (b) of the statutes is amended to read:

2 71.60 (1) (b) The credit allowed under this subchapter shall be limited to 90%
3 of the first \$2,000 of excessive property taxes plus 70% of the 2nd \$2,000 of excessive
4 property taxes plus 50% of the 3rd \$2,000 of excessive property taxes. The maximum
5 credit shall not exceed \$4,200 for any claimant. The credit for any claimant shall be
6 the greater of either the credit as calculated under this subchapter as it exists at the
7 end of the year for which the claim is filed or as it existed on the date on which the
8 farmland became subject to a current agreement under subch. II ~~or~~ III of ch. 91 or
9 under subch. III of ch. 91, 1999 stats., using for such calculations household income
10 and property taxes accrued of the year for which the claim is filed.

11 **SECTION 2.** 71.60 (1) (c) 3. of the statutes is amended to read:

12 71.60 (1) (c) 3. If the claimant or any member of the claimant's household owns
13 farmland which is ineligible for credit under subd. 1. or 2. but was subject to a
14 farmland preservation agreement under subch. III of ch. 91, 1999 stats., on July 1
15 of the year for which credit is claimed, or the owner had applied for such an
16 agreement before July 1 of such year, and the agreement has subsequently been
17 executed, and if the owner has applied by the end of the year in which conversion
18 under s. 91.41, 1999 stats., is first possible for conversion of the agreement to a
19 transition area agreement under subch. II of ch. 91, and the transition area
20 agreement has subsequently been executed, and the farmland is located in a city or

1 village which has a certified exclusive agricultural use zoning ordinance under
2 subch. V of ch. 91 in effect at the close of the year for which credit is claimed, or in
3 a town which is subject to a certified county exclusive agricultural use zoning
4 ordinance under subch. V of ch. 91 in effect at the close of the year for which credit
5 is claimed, the amount of the claim shall be that specified in par. (b).

6 **SECTION 3.** 71.60 (1) (c) 5. of the statutes is amended to read:

7 71.60 (1) (c) 5. If the claimant or any member of the claimant's household owns
8 farmland which is ineligible for credit under subs. 1. to 4. but was subject to a
9 farmland preservation agreement under subch. III of ch. 91, 1999 stats., on July 1
10 of the year for which credit is claimed, or the owner had applied for such an
11 agreement before July 1 of such year, and the agreement has subsequently been
12 executed, and if the owner has applied by the end of the year in which conversion
13 under s. 91.41, 1999 stats., is first possible for conversion of the agreement to an
14 agreement under subch. II of ch. 91, and the agreement under subch. II of ch. 91 has
15 subsequently been executed, the amount of the claim shall be limited to 80% of that
16 specified in par. (b).

17 **SECTION 4.** 71.60 (1) (c) 8. of the statutes is amended to read:

18 71.60 (1) (c) 8. If the farmland is subject to a farmland preservation agreement
19 under subch. III of ch. 91, 1999 stats., on July 1 of the year for which credit is claimed,
20 or the claimant had applied for such an agreement before July 1 of such year, and the
21 agreement has subsequently been executed, the amount of the claim shall be limited
22 to 50% of that specified in par. (b).

23 **SECTION 5.** 91.13 (8) (fm) of the statutes is amended to read:

24 91.13 (8) (fm) A statement in boldface uppercase type that contains the
25 following language: "UPON ~~RELINQUISHMENT~~ (WITHDRAWAL OR

1 ~~EXPIRATION) OF FROM THIS AGREEMENT, A PAYBACK OF CREDITS WITH~~
2 ~~INTEREST PAYMENT TO THE STATE MAY BE REQUIRED.”~~

3 **SECTION 6.** 91.17 (1) of the statutes is amended to read:

4 91.17 (1) Land subject to a farmland preservation agreement may be sold
5 without ~~a lien being filed~~ payment being made under s. 91.19 (7m), subject to the
6 reservation of rights contained in the agreement. The seller shall notify the
7 department of any such transfer. ~~The purchaser shall be liable under any~~
8 ~~subsequent lien under s. 91.19 only for the amount of tax credits paid on that portion~~
9 ~~of the land purchased.~~

10 **SECTION 7.** 91.17 (2) of the statutes is amended to read:

11 91.17 (2) When the owner of land subject to a farmland preservation agreement
12 dies or is certified by a physician to be totally and permanently disabled, the land
13 may be released from the program under this chapter and shall not be subject to ~~a~~
14 ~~lien~~ payment under s. 91.19 (8) (7m).

15 **SECTION 8.** 91.17 (3) of the statutes is repealed.

16 **SECTION 9.** 91.19 (2) (intro.) of the statutes is amended to read:

17 91.19 (2) (intro.) The Subject to sub. (7m), the department may relinquish the
18 farmland preservation agreement or may release part of the land from a farmland
19 preservation agreement prior to the termination date contained in the instrument
20 as follows:

21 **SECTION 10.** 91.19 (3) of the statutes is amended to read:

22 91.19 (3) If the request for relinquishment of the farmland preservation
23 agreement or release of part of the land from the agreement is approved by the local
24 governing body having jurisdiction, a copy of the application, along with the
25 comments and recommendations of the reviewing agencies, shall be forwarded to the

1 board. The board shall, within 60 days, upon consideration of the factors in sub. (2)
2 (b) and (c) 2., approve or reject the application for relinquishment or release. If the
3 board approves the application it shall notify the local governing body having
4 jurisdiction, the department of agriculture, trade and consumer protection, and the
5 department of revenue, ~~prepare an instrument under sub. (7) and record it with the~~
6 ~~register of deeds of the county in which the land is located.~~

7 **SECTION 11.** 91.19 (5) of the statutes is amended to read:

8 91.19 (5) If the application for relinquishment of the agreement or release of
9 part of the land from the agreement is rejected by the local governing body having
10 jurisdiction, the application shall be returned to the applicant with a written
11 statement regarding the reasons for rejection. Within 30 days after receipt of the
12 rejected application, the applicant may appeal the rejection to the board. The board
13 shall, within 60 days after the appeal has been received, upon consideration of the
14 factors listed in sub. (2) (b) and (c) 2., approve or reject the request for relinquishment
15 or release. If the board approves the application it shall notify the local governing
16 body having jurisdiction, the department of agriculture, trade and consumer
17 protection, and the department of revenue, ~~prepare an instrument under sub. (7) and~~
18 ~~record it with the register of deeds of the county in which the land is located.~~

19 **SECTION 12.** 91.19 (6p) of the statutes is repealed.

20 **SECTION 13.** 91.19 (6t) of the statutes is amended to read:

21 91.19 (6t) The Subject to sub. (7m), the department shall relinquish from a
22 farmland preservation agreement land that has been subject to a farmland
23 preservation agreement for at least 10 years if the owner of the land so requests.

24 **SECTION 14.** 91.19 (7) of the statutes is repealed.

25 **SECTION 15.** 91.19 (7m) of the statutes is created to read:

1 91.19 (7m) (a) Except as provided in par. (b), the department may not
2 relinquish a farmland preservation agreement under sub. (2) or (6t) or release land
3 from a farmland preservation agreement under sub. (2) until the owner pays to the
4 department \$50 per acre of land that is no longer covered by the farmland
5 preservation agreement.

6 (b) The payment under par. (a) does not apply to land that is zoned for
7 exclusively agricultural use under an ordinance certified under subch. V.

8 **SECTION 16.** 91.19 (8) to (13) of the statutes are repealed.

9 **SECTION 17.** 91.21 (1) of the statutes is amended to read:

10 91.21 (1) If the owner or a successor in title of the land upon which a farmland
11 preservation agreement has been recorded under this chapter changes the use of the
12 land to a prohibited use without first acting under ss. 91.17 and 91.19 and the land
13 is not relinquished under s. 91.19 (6p) or (6t), the owner or successor in title may be
14 enjoined by the state, acting through the attorney general, or by the local governing
15 body having jurisdiction, acting through its attorney, and is subject to a civil penalty
16 for actual damages, but in no case to exceed double the value of the land as
17 established at the time the application for the agreement was approved.

18 **SECTION 18.** 91.23 of the statutes is amended to read:

19 **91.23 Conversion.** An owner under a farmland preservation agreement may
20 at any time apply for a transition area agreement, and an owner under a transition
21 area agreement may at any time apply for a farmland preservation agreement. If
22 such an application is approved, the prior agreement shall be relinquished without
23 ~~a lien being filed~~ payment being made under s. 91.19 (7m).

24 **SECTION 19.** Subchapter III of chapter 91 [precedes 91.31] of the statutes is
25 repealed.

1 **SECTION 20.** 91.75 (6) of the statutes is amended to read:

2 91.75 (6) For purposes of farm consolidation and if permitted by local
3 regulation, farm residences or structures which that existed prior to the adoption of
4 the ordinance may be separated from a larger farm parcel. Farm residences or
5 structures with up to 5 acres of land which that are separated from a larger farm
6 parcel under this section are not subject to ~~the lien under s. 91.19 (8) to (10), as the~~
7 payment required in s. 91.77 (2) or 91.79.

8 **SECTION 21.** 91.77 (2) of the statutes is amended to read:

9 91.77 (2) ~~Land which is rezoned~~ Rezoning under this section shall be subject
10 ~~to the lien provided under s. 91.19 (8) to (10) for the amount of tax credits paid on the~~
11 ~~land rezoned~~ conditioned on the payment, to the county, city, village, or town that
12 approves the petition, of \$60 per acre of land that is rezoned. A county, city, village,
13 or town that receives payment under this subsection shall pay to the state the
14 amount received. If the rezoning occurs solely as a result of action initiated by a
15 governmental unit, ~~any lien required under s. 91.19 (8) to (10) the payment shall be~~
16 ~~paid~~ made to the state by the governmental unit initiating the action.

17 **SECTION 22.** 91.79 of the statutes is amended to read:

18 **91.79 Conditional uses; lien payment.** Any ~~land zoned under this~~
19 ~~subchapter which is granted a special exception or conditional use permit for a use~~
20 ~~which that~~ is not an agricultural use that is granted for land zoned under this
21 ~~subchapter shall be subject to the lien provided under s. 91.19 (8) to (10) for the~~
22 ~~amount of tax credits paid on the land granted such a permit~~ conditioned on the
23 payment, to the county, city, village, or town that grants the special exception or
24 conditional use permit, of \$60 per acre of land for which the special exception or

1 conditional use permit is granted. A county, city, village, or town that receives
2 payment under this section shall pay to the state the amount received.

3 **SECTION 9304. Initial applicability; agriculture, trade and consumer**
4 **protection.**

5 (1) FARMLAND PRESERVATION CONVERSION FEES. The treatment of sections 91.17
6 (1), (2), and (3), 91.19 (2) (intro.), (3), (5), (6t), (7), (7m), and (8) to (13), 91.23, 91.75
7 (6), 91.77 (2), and 91.79 of the statutes first applies to land that is released or
8 relinquished from a farmland preservation agreement or rezoned from exclusive
9 agricultural zoning on the effective date of this subsection.

10 (END)